

FACT SHEET

Americans with Disabilities Act Transportation Requirements - An Overview (49 CFR Parts 27, 37 and 38)

Non-Discrimination

The Americans with Disabilities Act (ADA) prohibits transportation providers from discriminating against qualified individuals with disabilities in transportation services offered by a public entity (under Title II) or a private entity (under Title III). This prohibition applies regardless of whether an entity receives federal funding and it extends to transportation service that is operated on a “fixed-route” or “demand-responsive” basis.

- No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.
- An entity shall not, on the basis of disability, deny to any individual with a disability the opportunity to use the entity’s transportation service for the general public, if the individual is capable of using that service.
- An entity shall not require an individual with a disability to use a designated priority seat, if the individual does not choose to use those seats.
- An entity shall not impose special charges on individuals with disabilities, including individuals who use wheelchairs, for providing services required under the ADA or otherwise necessary to accommodate them.
- An entity shall not require that an individual with disabilities be accompanied by an attendant.
- An entity shall not refuse to serve an individual with a disability because its insurance company conditions coverage or rates on the absence of individuals with disabilities.
- An entity may refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive or illegal conduct. However, an entity shall not refuse to provide services to an individual with disabilities solely because the individual’s disability results in the appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

What Is Covered?

The ADA’s transportation requirements apply to the following entities, whether or not they receive Federal financial assistance from the U.S. Department of Transportation (DOT):

- Any public entity that provides designated public transportation or intercity or commuter rail transportation;
- Any private entity that provides specified public transportation; and
- Any private entity that is not primarily engaged in the principal business of transporting people but operates a demand-responsive or fixed-route system.

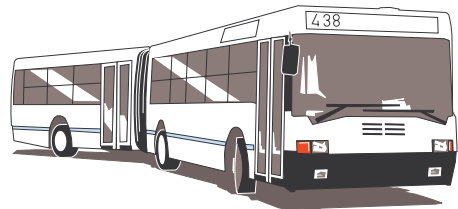
ACQUISITION OF VEHICLES BY PUBLIC ENTITIES

Purchase or lease of new buses and vans – fixed-route systems

Each new bus or other new vehicle for use on the system, solicited for purchase or lease after August 25, 1990, shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

Purchase or lease of used buses and vans – fixed-route systems

Each used bus or other used vehicle for use on the system, solicited for purchase or lease after August 25, 1990, shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless, after good faith efforts such a vehicle cannot be obtained.



Remanufactured buses and vans – fixed-route systems

After August 25, 1997, a public entity operating a fixed-route system that remanufactures a bus or other vehicle to extend its useful life for five years or more, makes a solicitation for such remanufacturing, or purchases or leases such a vehicle, shall, to the maximum extent feasible, acquire vehicles that are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

Purchase or lease of new buses and vans – demand-responsive systems

Each new bus or other new vehicle for use on the system, solicited for purchase or lease after August 25, 1990, shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, provides equivalent service (see Equivalent Service Standard below).

Comparable complementary paratransit service

Each public entity operating a fixed-route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed-route service. Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems.

Service under contract

When a public entity enters into a contractual or other arrangement or relationship with a private entity to operate fixed-route or demand-responsive service, the public entity shall ensure that the private entity meets the requirements of the ADA that would apply to the public entity if the public entity itself provided the service.

ACQUISITION OF VEHICLES BY PRIVATE ENTITIES

Private entities not primarily engaged in the business of transporting people

This section applies to all purchases or leases of vehicles in which a solicitation for the vehicle is made after August 25, 1990.

Fixed-route systems

Vehicle Capacity Over 16. A vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

Vehicle Capacity of 16 or Fewer. A vehicle with a seating capacity of 16 or fewer passengers (including the driver) for use on the system shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, provides equivalent service (see Equivalent Service Standard below).

Demand-responsive systems

Vehicle Capacity Over 16. A vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, provides equivalent service (see Equivalent Service Standard below).

Vehicle Capacity of 16 or Fewer. New vehicles with a seating capacity of 16 or fewer are not specifically required to be accessible to individuals with wheelchairs. However, entities that operate such vehicles are required to ensure that their systems, when viewed in their entirety, provide equivalent service (see Equivalent Service Standard below), regardless of whether or not they purchase new vehicles.

Private entities primarily engaged in the business of transporting people

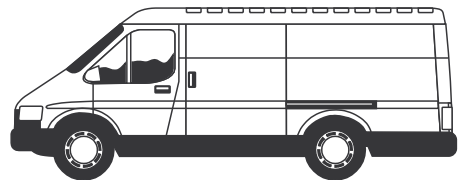
This section applies to all acquisitions of new vehicles in which a solicitation for the vehicle is made (except as otherwise provided) after August 25, 1990.

Fixed-route systems

A new vehicle other than an automobile, a van with a seating capacity of less than eight persons (including the driver), or an over-the-road bus, shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

Demand-responsive systems

A new vehicle other than an automobile, a van with a seating capacity of less than eight persons (including the driver), or an over-the-road bus, shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, provides equivalent service (see Equivalent Service Standard below).

**Fixed-route or demand-responsive systems**

A new van with a seating capacity of fewer than eight persons including the driver (solicited after February 25, 1992), shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, provides equivalent service (see Equivalent Service Standard below).

Equivalent Service Standard

A fixed-route system or demand-responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics: schedules/headways; response time; fares; geographic area of service; hours and days of service; availability of information; reservations capability; any constraints on capacity or service availability; and restrictions or priorities based on trip purpose.

Over-the-Road Buses

The DOT issued final regulations that require private entities operating over-the-road buses (OTRB) to provide accessible service for persons with disabilities. A fact sheet (ADA-OTRB - July 2000) that covers the requirements for OTRB operators is available from the Disability and Communication Access Board.

Standards for Accessible Vehicles

In addition to the general requirements for transportation, the DOT issued minimum guidelines and requirements for accessibility standards for transportation vehicles required to be accessible by the ADA. Departures from particular technical and scoping requirements of these guidelines by use of other design and technologies (equivalent facilitation) are permitted where the other design and technologies used will provide substantially equivalent or greater access to and usability of the vehicle. Departures are to be considered on a case-by-case basis.

Enforcement

Under Title II of the ADA, public entities that receive federal financial assistance from the DOT are subject to administrative enforcement. Public entities, whether or not they receive federal financial assistance, also are subject to enforcement action as provided by the U.S. Department of Justice (DOJ). The penalties for non-compliance include lawsuits filed by private individuals and the loss of federal Transit Administration funding.

Under Title III of the ADA, private entities, whether or not they receive federal financial assistance, are also subject to enforcement action as provided in the regulations of the DOJ implementing Title III of the ADA. The penalties for non-compliance include lawsuits filed by private individuals, investigations by the U.S. Attorney General, and pattern and practice lawsuits filed on behalf of individuals by the U.S. Attorney General.



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